



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0030; Notice 1]

Volkswagen Group of America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Volkswagen Group of America, Inc., (Volkswagen) has determined that certain model year (MY) 2019 Audi A6 and Audi A7 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Volkswagen filed a noncompliance report dated March 27, 2019, and subsequently petitioned NHTSA on April 17, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Volkswagen's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Volkswagen has determined that certain MY 2019 Audi A6 and Audi A7 motor vehicles do not fully comply with the requirements of paragraph S5.4.3 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Volkswagen filed a noncompliance report dated March 27, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on April 17, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Volkswagen's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 3,908 MY 2019 Audi A6 and Audi A7 vehicles manufactured between July 27, 2018, and November 6, 2018, are potentially involved.

III. Noncompliance: Volkswagen explains that the noncompliance is that a small number of the affected vehicles may have a European-specification brake fluid reservoir cap instead of the one required for the North American/United States market as required by paragraph S5.4.3 of

FMVSS No. 135. Specifically, the subject brake fluid reservoir caps may not include the required warning label.

IV. Rule Requirements: Paragraph S5.4.3 of FMVSS 135, includes the requirements relevant to this petition. Each vehicle equipped with hydraulic brakes shall have a brake fluid warning statement that reads as follows, in letters at least 3.2 mm ($\frac{1}{8}$ inch) high: “WARNING: Clean filler cap before removing. Use only _____ fluid from a sealed container.” (Inserting the recommended type of brake fluid as specified in 49 CFR 571.116, e.g., “DOT 3.” The lettering shall be permanently affixed, engraved, or embossed, located so as to be visible by direct view, either on or within 100 mm (3.94 inches) of the brake fluid reservoir filler plug or cap, and of a color that contrasts with its background, if it is not engraved or embossed.

V. Summary of Petition: Volkswagen described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Volkswagen submitted the following reasoning:

1. The brake fluid cap shows clearly the specification of brake fluid required.
2. The brake fluid cap conforms to the requirements of ISO9128:2006, which is a requirement of UN-ECE Regulations 13 and 13h.
3. Volkswagen asserts that NHTSA has previously granted the following petitions to accept ISO symbols in the absence of FMVSS labelling.
 - a) Jaguar Land Rover petition regarding light vehicle brake systems, re: brake fluid cap (84 FR 13095,13098);
 - b) Ford petition regarding controls and displays including brake system-related telltales (78 FR 69931, 69932); and
 - c) Hyundai petition regarding lower anchorage identification (73 FR 38290, 38291).

4. Volkswagen states that the brake fluid cap provides clear symbols including one for caution and one for referring to owner manual instructions. The manual indicates the proper brake fluid specification for use in the vehicle.
5. Service to the brake system involving an exchange of the brake fluid is not a standard maintenance activity for an owner/user. Repairs to the brake system, which includes evacuating and refilling the brake fluid, requires basic technical knowledge regarding the brake system and should be performed by a trained technician.
6. Volkswagen has not received any field or customer complaints related to this condition.
7. Volkswagen has not received notification of any accidents or injuries resulting from this issue.

Volkswagen's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

Volkswagen concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that

Volkswagen no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Volkswagen notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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